

Internal Revenue Service, Treasury

§ 48.4218-5

§ 48.4218-3 Events subsequent to taxable use of article.

Liability for tax incurred on the use of an article is not extinguished or reduced because of any subsequent sale or lease of the article even if such sale or lease would have been exempt if the article had been so sold or leased prior to use. If a manufacturer, producer, or importer of an article incurs liability for tax on his use thereof, and thereafter sells or leases the article in a transaction which otherwise would be subject to tax, liability for tax is not incurred on such sale or lease.

[T.D. 6687, 28 FR 11781, Nov. 5, 1963]

§ 48.4218-4 Use in further manufacture.

For purposes of section 4218 and § 48.4218-1, an article is used as material in the manufacture or production of, or as a component part of, another article, if it is incorporated in, or is a part or accessory of, the other article. Lubricating oil in the crankcase of a new truck is an example of a taxable article use as material in the manufacture or production of, or as a component part of, another article. In addition, an article (other than gasoline used as a fuel) is considered to be used as material in the manufacture of another article if it is partly or entirely consumed in testing such other article; for example, shells or cartridges used in testing new firearms. Similarly, if an article is partly or wholly consumed in quality testing a production run of like articles (as, for example, an automotive part destroyed in stress testing) such article is also considered to have been used as material in the manufacture of another article. However, if a taxable article that has been used tax free and only partly consumed in testing is later sold, or put to a taxable use, by the manufacturer, tax attaches to such sale or use. An article that is consumed in the manufacturing process other than in testing, so that it is not a physical part of the manufactured article, is not used as material in the manufacture or production of, or as a component part of, such other article. Thus, lubricating oil consumed in operating plant machinery in the course of the manufacture of auto-

mobile truck chassis is not used as material in the manufacture or production of, or as a component part of, the truck chassis.

[T.D. 6687, 28 FR 11781, Nov. 5, 1963, as amended by T.D. 7536, 43 FR 13521, Mar. 31, 1978]

§ 48.4218-5 Computation of tax.

(a) *Tax based on price.* Except as provided in paragraph (d) of this section, tax liability incurred on the use of an article shall be computed on the price at which such or similar articles are sold in the ordinary course of trade by manufacturers, producers, or importers thereof and in the absence of special arrangements. For additional provisions applicable in computing the tax in the case of the use of an article by a manufacturer and producer who purchased the article free of tax under section 4221(a)(1) for use by him in further manufacture, see section 423(b) and the regulations thereunder.

(b) *Articles regularly sold by manufacturer.* If the manufacturer, producer, or importer of an article regularly sells such articles at wholesale in arm's length transactions, tax liability on his use of any such article shall be computed on his lowest established wholesale price for such articles in effect at the time of the taxable use. In establishing such price, there shall be included and excluded, as applicable, the charges and readjustments specified in sections 4216(a), 4216(f), and 6416(b)(1), as in effect at the time tax liability on the use of the article is incurred, and the regulations thereunder contained in this subpart and Subpart O. If the manufacturer, producer, or importer of an article does not regularly sell such articles at wholesale in arm's length transactions, a constructive price on which the use tax shall be computed will be determined by the Commissioner. This price will be established after considering the selling practices and price structures of manufacturers, producers, and importers of similar articles.

(c) *Articles governed by section 4218(a) used in manufacture of nontaxable combination articles.* If the manufacturer, producer, or importer of an article to which section 4218(a) applies does not regularly sell such article separately